

USDC SCAN INDEX SHEET



SANTORO

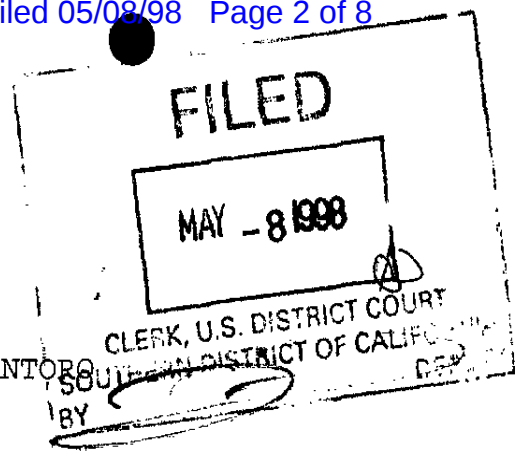
CTC FORECLOSURES SVC

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AMDCMP.



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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
9

10 JOSEPH SANTORO and GRACE
SANTORO,

11 Plaintiffs,

12 v.

13 CTC FORECLOSURE SERVICES
CORP. aka COUNTRYWIDE TITLE
14 CORP. a California
Corporation, COUNTRYWIDE
15 FUNDING CORPORATION, a
California Corporation, and
16 DOES 1 through 15
inclusive,

17 Defendants.

Case No. 97 cv 1297 - BTM(JFS)

AMENDED COMPLAINT FOR
DAMAGES FOR VIOLATIONS OF
STATE FAIR DEBT COLLECTION
PRACTICES ACT, AND UNFAIR
BUSINESS PRACTICES, AND TORT
IN ESSENCE.

18 I. PRELIMINARY STATEMENT

19 1. This Complaint is filed under the AIR DEBT COLLECTIONS
20 PRACTICES ACTS (15 USC §§ 1692 and CALIFORNIA CIVIL CODE § 1788
21 et seq).

22
23 II. JURISDICTION

24 2. Jurisdiction is conferred on this Court by 15 U.S.C. §
25 1640(e) and 28 U.S.C. §§ 1331, 1337.
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III. PARTIES

3. The Plaintiffs, JOSEPH SANTORO and GRACE SANTORO, are natural persons, residing at 2413 Alexander Drive, Escondido CA 92029.

4. Defendant, COUNTRYWIDE FUNDING CORPORATION (herein after referred to as COUNTRYWIDE), is a Corporation engaged in the business of consumer lending at 400 Countrywide Way, SV-35, Simi Valley CA 93065.

5. Defendant, CTC FORECLOSURE SERVICES CORP aka COUNTRYWIDE TITLE CORPORATION (herein after referred to as CTC), is a Corporation engaged in the business of consumer lending at 400 Countrywide Way, SV-88, Simi Valley CA 93065.

IV. FACTUAL ALLEGATIONS

6. On or about June 13, 1994, Plaintiff entered into a consumer credit transaction (hereinafter "the transaction") with Defendant in which the extended consumer credit was subject to a finance charge and which was initially payable to Defendant. Said transaction was the refinancing of the mortgage on Plaintiff's primary residence.

7. Upon falling into default, Plaintiffs contacted their counsel of record in this case, and attempted to rescind the loan under the terms of the Truth In Lending Act.

1 8. Defendants were contacted by Plaintiffs counsel, and
2 informed that all contacts should go through said counsel.
3

4 9. Subsequent to this contact, Defendants performed the
5 following contacts of Plaintiffs:
6

7 a. Sending a letter form Country Wide Home Loans dated April
8 10, 1997 but postmarked May 15, 1997, in essence offering a
9 work-out of the loan.
10

11 b. Shortly thereafter, the Plaintiffs were visited at their
12 home by Earl Gervais, who had come to inspect the property,
13 claiming that he did not know that the property was
14 occupied.
15

16 c. On one other occasion, the Plaintiff, Joseph Santoro,
17 came up from the back yard just in time to see someone
18 measuring the property. When he asked them what they were
19 doing they did not respond, but merely got into their truck
20 and left.
21

22 d. Plaintiffs were also sent no less than one nor more than
23 two notices from Defendants as to the pending sale of the
24 property in foreclosure.
25
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V. FIRST CAUSE OF ACTION

FAIR DEBT COLLECTION PRACTICES ACTS

10. Defendants violated the provisions of 15 U.S.C. § 1692c(a)(2) and CALIFORNIA CIVIL CODE § 1788.14(C) in that on at least two occasions Defendants continued to contact Plaintiffs after being notified that Plaintiffs were represented by counsel.

11. As a result of the violations of 15 U.S.C. § 1692c(a)(2) and CALIFORNIA CIVIL CODE § 1788.14(c), Defendants are either individually or jointly liable to Plaintiffs for their actual damages and an additional sum of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) for each violation of each body of law as provided in 15 U.S.C. § 1692k and CALIFORNIA CIVIL CODE § 1788.30.

VII. SECOND CAUSE OF ACTION

Tort In Essence

12. Plaintiffs incorporate the allegations in Paragraphs 1 through 11 above with the same force and effect as if herein set forth.

13. This Court has supplemental jurisdiction to adjudicate all state causes pled herein by virtue of its jurisdiction as conferred by Congress as alleged in Paragraphs 1 through 12 in that it arises out of the same credit transaction (and collection

1 efforts thereunder) subject to Count I and is part of the same
2 case or controversy.

3
4 14. Plaintiffs hereby allege that Defendants conduct
5 setforth above constituted a violation of not only the laws cited
6 above, but of CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200
7 et seq and 17500 et seq, in that the acts constituted practices
8 that were unlawful, unfair, and fraudulent as to Defendant's
9 conduct following the rescission, and false and misleading
10 statements at the time the mortgage was first negotiated and
11 again upon Defendants' disregard of the rescision and continued
12 actions to foreclose on Plaintiffs' property and then to evict
13 them from that property prior to a determination that the
14 rescision was either valid or invalid in this proceeding in
15 violation of 15 USC § 1635, thereby constituting undue oppression
16 and unfairness in that Plaintiffs were made to feel as though the
17 instant proceedings lacked any substance, and increased the
18 stress and pressure normally associated with such an action.

19
20 15. These violations were the direct cause of Plaintiff's
21 damages that include but are not limited to Plaintiff's extreme
22 frustration, embarrassment, and anxiety as a direct result of
23 Defendants outrageous, malicious, and reckless acts and refusal
24 to follow legal procedures required of them, coupled with the
25 prospect of being wrongfully deprived of their home and primary
26 asset.

1 16. These sections of the Business and Professions Code
2 were enacted to prevent this type of conduct and the foreseeable
3 damages setforth above were the kind the laws were enacted to
4 avoid, and Plaintiff's damages were the foreseeable results of
5 said violations.

6
7 VII. PRAYER FOR RELIEF

8 WHEREFORE, it is respectfully prayed that this Court:

- 9
- 10 1. Retain jurisdiction of this case;
 - 11
 - 12 2. Award actual damages in an amount to be established at
 - 13 trial.
 - 14
 - 15 9. Award the Plaintiff costs and a reasonable attorney's
 - 16 fee as provided under state and federal law;
 - 17
 - 18 10. Award such other and further relief as the Court deems
 - 19 just and proper.
 - 20

21 Respectfully submitted,

22
23
24 

25 Attorney for Plaintiff

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

☐ CHECK APPLICABLE PARAGRAPHS

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, 19____, at _____, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the county of SAN DIEGO, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 456 E. GRAND AVE.
STE. 301 ESCONDIDO CA 92025

on 05/08/98, 19____, I served the foregoing document described as AMENDED COMPLAINT, NOTICE OF MOTION AND MOTION FOR CERTIFICATION FOR APPEAL UNDER FEDERAL RULE 54(b) AND 28 USC 1291; NOTICE OF APPEAL; AND PROPOSED ORDER on DEFENDANTS in this action

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

ATTN: SANFORD SHATZ
CAMERON & DREYFUS
1750 E. FOURTH STREET, STE 500
SANTA ANA CA 92705-3923
FAXED: 714-972-1218

☒ BY MAIL

☒ *I deposited such envelope in the mail at ESCONDIDO, California.
The envelope was mailed with postage thereon fully prepaid.

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at ESCONDIDO California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on May 08, 1998, 19____, at ESCONDIDO, California.

☐ ****(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on _____, 19____, at _____, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

LOUIS G. BRUNO

Type or Print Name


Signature

*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)